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ORIGINAL



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

MMB Docket No. 1712-0001

Application of: **Jennings**

Group Art Unit: **3611**

Serial No. **09/696,458**

Examiner: **L. Lum**

Filed: **October 25, 2000**

For: **After-Market Dashboard Bezel for an Automobile having a Number of
Instrument Holders and Associated Method**

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April 16, 2004

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BRIEF ON APPEAL

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This is an appeal under 37 CFR 1.191 to the Board of Patent Appeals and

Interferences of the United States Patent and Trademark Office from the final

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rejection of the claims 26-44 and 52-61 of the above-identified patent application. These claims were indicated as finally rejected in an Office Action dated February 12, 2004. Three copies of the brief are filed herewith, together with the \$330.00 fee required under 37 CFR 1.17(c). Also, please provide any extensions of time that may be necessary and charge any fees that may be due to Account No. 13-0014, but not to include any payment of issue fees.

(1) REAL PARTY IN INTEREST

Douglas M. Jennings of Indianapolis, Indiana is the owner of this patent application, and the real party in interest.

(2) RELATED APPEALS AND INTERFERENCES

There are no appeals or interferences related to this patent application (serial no. 09/696,458).

(3) STATUS OF CLAIMS

Claims 26-44 and 52-61 are pending in the application.

Claims 26-44 and 52-61 are finally rejected.

Claims 26-44 and 52-61 are being appealed.

Each of claims 26-44 and 52-61 is shown in the Appendix attached to this Appeal Brief.

(4) STATUS OF AMENDMENTS

Appellants have filed no amendments subsequent to the final rejection contained in the Office Action mailed February 12, 2004.

(5) SUMMARY OF INVENTION

The present invention relates to a method for adding an additional instrument 60, 70 to a vehicle having a dashboard housing 36 and an instrument cluster assembly 54. (See, e.g., Appellant's specification at page 17, lines 16-21; page 9, lines 9-14; and Figs. 8 and 19.) The method comprises removing an original dashboard bezel 80 from a bezel mounting space 38 defined between the dashboard housing 36 and the instrument cluster assembly 54. (See, e.g., Appellant's specification at page 18, lines 3-11; page 9, lines 9-14; page 13, lines 19-21; and Figs. 8-11.) The original dashboard bezel 80 possesses no instrument mounts. (See, e.g., Appellant's specification at page 15, lines 7-14; and Figs. 20-21.) The method also comprises installing a replacement dashboard bezel 20 in the bezel mounting space 38. (See, e.g., Appellant's specification at page 15, lines 15-17; page 18, lines 17-23; and Figs. 12-19.) The replacement dashboard bezel 20 has (i) a body 40 substantially conforming in dimension to the original dashboard bezel 80, and (ii) at least one instrument mount 32, 34. (See, e.g., Appellant's specification at page 14, line 10 through page 15, line 14; and Figs. 1-7 and 20-21.) Moreover, the method comprises locating an instrument 60, 70 in the at least one instrument mount 32, 34. (See, e.g., Appellant's specification at page 18, lines 12-16; and Fig. 19).

The instrument cluster assembly 54 includes a window 64 and a speedometer 58. (See, e.g., Appellant's specification at page 9, lines 14-21; and Fig. 8). The speedometer 58 is located on a backside of the window 64 whereby a driver of the vehicle may view the speedometer through the window 64, and the instrument mount 32, 34 is located on a front side of the window after the replacement dashboard bezel 20 is installed in the installing step. (See, e.g., Appellant's specification at page 9, lines 9 through page 10, line 16; and Figs. 8, 15, and 19).

The present invention also relates to an after-market dashboard bezel 20 that includes a body 40 configured to be mounted in a bezel mounting space 38 defined between a dashboard housing 36 and an instrument cluster assembly 54 of a vehicle, and an instrument mount 32, 34 secured to the body 40. (See, e.g., Appellant's specification at page 14, line 10 through page 15, line 17; page 18, lines 17-23; and Figs. 1-7 and 16-21.) The instrument mount 32, 34 is integrally formed with the body 40. (See, e.g., Appellant's specification at page 9, lines 3-8; Figs. 1-7.)

The body 40 is formed by an upper body portion 24, a lower body portion 22, a right side portion 26 coupled to a first side of the upper body portion 24 and a first side of the lower body portion 22, and a left side portion 28 coupled to a second side of the upper body portion 24 and a second side of the lower body portion 22. (See, e.g., Appellant's specification at page 8, line 23 through page 9, line 3; Figs. 1-7.) The upper body portion 24, the lower body portion 22, the

right side portion 26, and the left side portion 28 collectively define a viewing opening 30. (See, e.g., Appellant's specification at page 9, lines 9-12; Figs. 1-7.)

(6) ISSUE

Whether claims 26-44 and 52-61 are anticipated under 35 U.S.C. § 102(a) by a supplemental product flyer purportedly distributed by "Auto Meter Products, Inc." which was allegedly "printed before June 1999 as evidenced by the title 'New for '99'", and the statement in the middle of the page "Available in June!" (hereinafter "Auto Meter Flyer"). The Auto Meter Flyer is shown in Exhibit I.

(7) GROUPING OF CLAIMS

Claims 26-44 and 52-61 form a single group that is argued together for purposes of this appeal only.

(8) ARGUMENT

Claims 26-44 and 52-61 were rejected under 35 U.S.C. § 102(a) as being anticipated by a supplemental product flyer purportedly distributed by "Auto Meter Products, Inc." which was allegedly "printed before June 1999 as evidenced by the title 'New for '99'", and the statement in the middle of the page "Available in June!" (hereinafter "Auto Meter Flyer"). The Auto Meter Flyer is shown in Exhibit I. Appellant respectfully requests reconsideration of this rejection by the Board of Appeals.

Sole Issue in the Appeal

The central issue in this Appeal is whether the Auto Meter Flyer is a legally proper 35 U.S.C. § 102(a) prior art reference with respect to the present patent application.

Origin of Auto Meter Flyer

During an interview on September 11, 2003 at the U.S. Patent and Trademark Office, the Examiner told Appellant's attorney that she made a phone call to Auto Meter Products, Inc. (hereinafter "Auto Meter") and spoke with an employee of Auto Meter that was knowledgeable about Auto Meter's instrument cluster bezel product. The Examiner stated that this phone call occurred sometime after receiving Appellant's Amendment dated April 15, 2003. The Examiner further told Appellant's attorney that, during this phone call, she told the Auto Meter employee that she was looking for some printed matter that showed Auto Meter's instrument cluster bezel product being offered for sale before January of 2000. In response to this request, the Auto Meter employee forwarded the Auto Meter Flyer to the Examiner at the U.S. Patent and Trademark Office.

Examiner's Conclusion that "Auto Meter Flyer was Distributed to Potential Customers"

Apparently, based only on the content of the Auto Meter Flyer along with the information derived from a single telephone discussion with an anonymous Auto Meter employee who forwarded the Auto Meter Flyer to the Examiner at the U.S. Patent and Trademark Office, the Examiner arrived at the conclusion that Auto Meter distributed this flyer to its potential customers (presumably before June 1999). For example, see the statements made in the 2/12/04 Final Office Action (and the 8/13/03 Office Action):

2/12/04 Final Office Action at Page 3, Line 11

... Auto Meter ... distributed the flyer to its potential customers.

2/12/04 Final Office Action at Page 2, Lines 9-10

... [the] supplemental product flyer [was] distributed by "Auto Meter Products, Inc.", printed before June 1999 (as evidenced by the title "New for '99", and [the] statement in center of page, "Available in June!").

35 U.S.C. § 102(a)

The only rejection of the claims of this patent application contained in the Final Office Action dated February 12, 2004 relates to 35 U.S.C. § 102(a) which reads as follows:

A person shall be entitled to a patent unless -

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for patent.

The Auto Meter Flyer By Itself Cannot Establish That The Flyer Was Distributed To The Public

The Auto Meter Flyer does not identify any public recipient and bears no markings indicating that it ever was delivered to anyone. Although the Auto Meter Flyer does have text that indicates the document may have existed around June of 1999, the text cannot prove that the document was distributed or that the product depicted in the document existed at any particular time. Thus, the record of the present examination cannot establish that the Auto Meter Flyer is demonstrative of public knowledge or use or that the document is a “printed publication” as required by the statute. Note that a marketing flyer is very unlike a traditional prior art reference cited by the U.S. Patent and Trademark Office during a patent examination process, such a U.S. Patent or an article from a well known trade journal in which the authenticity of the document may be readily verified.

A reference is proven to be a “printed publication” upon a satisfactory showing that such a document has been disseminated or otherwise made available to any member of the public. See, e.g., MPEP 2128; see also, e.g., *Carella v. Starlight Archery*, 804 F.2d 135, 231 USPQ 644 (Fed Cir. 1986). The record of this application’s examination contains no credible evidence that any member of the public ever received the Auto Meter Flyer. To constitute “knowledge or use” under 35 U.S.C. § 102(a), the knowledge or use must be public. MPEP 2132 I. In the written record of the present examination, the Examiner appears to have relied upon the Auto Meter Flyer by itself as being capable of supporting the statement that the flyer “was distributed by ‘Auto Meter

Products, Inc.” However, the flyer identifies no recipient whatsoever and, even if it did, that would not constitute proof of actual receipt of the flyer by the addressee. See *In re Schlittler*, 234 F.2d 882. 110 USPQ 304 (CCPA 1956), MPEP 2128.02. Therefore, the document by itself does not contain sufficient evidence that it was received by at least one member of the public.

As noted above, the Examiner identified the source of information regarding the Auto Meter Flyer in an interview with Appellant’s counsel as being an anonymous Auto Meter employee who was telephoned by the Examiner. An analogous situation was addressed by the United States Supreme Court in *The Barbed Wire Patent* case. There, the court dealt

“with certain unpatented devices, claimed to be complete anticipations of this patent [before the court], the existence and use of which are proven only by oral testimony. In view of the unsatisfactory character of such testimony, arising from the forgetfulness of witnesses, their liability to mistakes, their proneness to recollect things as the party calling them would have them recollect them, aside from the temptation to actual perjury, courts have not only imposed upon defendants the burden of proving such devices, but have required that the proof shall be clear, satisfactory and beyond a reasonable doubt.” 143 U.S. 275, 284 (1891).

The Court of Customs and Patent Appeals relied upon this legal reasoning to give no weight to uncorroborated statements *in an affidavit* regarding prior inventions by another. See *In re Reuter*, 210 USPQ 249 (CCPA 1981). Certainly an Auto Meter employee would be subject to bias in his or her testimony because Auto Meter has a significant pecuniary interest in scuttling a third party’s attempt to secure patent protection that may have an immediate and lasting impact on its bottom line. In the present case, there is no basis for determining that the Auto Meter employee could even possess the knowledge requested from him or her

by the Examiner. No affidavit has been presented that alleges facts indicating the declarant has personal knowledge of the Auto Meter Flyer at the relevant time period. Instead, the Examiner has accepted at face value, testimony from an anonymous employee of Auto Meter that the flyer was distributed to the public at a date that occurred almost five years ago. This testimony would be inadmissible hearsay and could not be used to establish or corroborate any facts regarding the Auto Meter Flyer in a court of law. No basis has been given for any indicia of reliability for such testimony. In fact, it is just as likely that the Auto Meter Flyer is merely an internal draft document stored on an Auto Meter marketing computer. Using the information within the four corners of the document, the Auto Meter Flyer is insufficient to establish public access and is, consequently, not credible as evidence of prior knowledge, use, or its existence as a printed publication. Therefore, the Auto Meter Flyer cannot support the 102(a) rejection of Appellant's claimed invention.¹

¹ The document by itself also cannot demonstrate a public use because a "use" requires an actual reduction to practice. For example, a drawing does not qualify as an actual reduction to practice. See *Connecticut Valley Enterp. v. United States*, 146 USPQ 404, 406 (Ct. Claims 1965).

The Auto Meter Flyer Was Not Located In A Search Recommended By The MPEP

MPEP 904 outlines the guidelines for a search to be conducted by examiners during examination of patent applications. Generally, searches should be conducted in the collections of U.S. and foreign patents. Considerations of searches of non-patent literature (NPL) should include a decision as to whether an Information Technology Resource Person (ITRP) or persons within the Science and Technology Information Center (STIC) should be consulted. Dates of publication of literature from either of these sources or from an Internet search for NPL conducted by an examiner are best established by a staff member of the STIC. MPEP 901.06(a)G and MPEP 2128. These safeguards help ensure that examiners are using references that have verifiable dates of publication. The Auto Meter Flyer was not found in any of the sources set forth in the guidelines of MPEP 904.

Internet searches are limited to queries regarding the general state of the art unless the Office has established a secure link over the Internet with a vendor. This is done in order to maintain the confidentiality of information contained within a patent application. MPEP 904.02(c). Searches over the Internet that could disclose proprietary information directed to a specific application which has not been published are expressly prohibited. Id. Although the Examiner did not conduct an Internet search to locate the Auto Meter Flyer, the same principles apply here where information regarding the subject matter of a pending application that had not yet been published was discussed with a member of the public. Although the current application was published on March

25, 2004, the circumstances surrounding the Auto Meter Flyer are unusual and the indicia of reliability for documents typically cited by examiners are missing for the Auto Meter Flyer.

The Examiner's Quest For Additional Information Was Made In A Manner That Avoided The Safeguards For Reliable Evidence Provided By The Rules and The MPEP

Issues regarding more information related to statutory bars under 35 U.S.C. §102(a) and (b) should be addressed by a request for information pursuant to 37 CFR 1.105. MPEP 706.02(c). Under 37 CFR 1.105, the request for information may only be addressed to those persons identified in 37 CFR 1.56(c), namely, an Applicant and his or her attorney or agent. 37 CFR 1.105(a)(1). Such limitations on examiners make good sense as the Appellant and his or her representatives have a duty of candor towards the Office in the examination of the patent application. Investigations by the Appellant in response to a Rule 105 request for information that result in the discovery of material information must be submitted to the Office under Rule 56, otherwise, enforcement of any patent that may issue is fraught with inequitable conduct issues. Such consequences help ensure competent responses to Rule 105 requests with attendant safeguards for the reliability of the materials received pursuant to the request. Thus, the rules place the burdens regarding the integrity of the examination on the persons most knowledgeably engaged in the proceeding.

Circumvention of Rule 105 in this particular case to obtain evidence from a source not having a duty of candor under Rule 56 has resulted in a faulty ground of rejection based on a document from a biased source that is supplemented with only hearsay statements. Moreover, that testimony originates from an anonymous person and is marred by the credibility issues identified by the U.S. Supreme Court in *The Barbed Wire Patent* case cited above. The administrative rules governing the Office and the practice and procedure guidelines put forth by the Office provide prophylactic measures to prevent the corruption of examination proceedings with the type of amorphous and inaccessible testimony that is being used in this proceeding to deny the issuance of the pending claims. Such irregular citation of questionable evidence should be overturned by the Board.

The proper place for evaluating the credibility of evidence from persons other than an Appellant for a patent is a court of law where the rules of evidence and civil procedure were formulated for such purposes. The rules of the Office governing examination of patent applications do not envision the testing of testimony under cross-examination and the gathering of discovery for rebutting or impeaching evidence during normal patent prosecution. The issues being addressed in the examination of this application cannot be resolved with equity towards all. Consequently, this Board should overrule the Examiner on the use of the Auto Meter Flyer and allow all of the pending claims.

Prosecution History of U.S. Patent No. D480,341 Contradicts Existence of Auto Meter Flyer

The Auto Meter Flyer prominently displays the “Auto Meter” trademark, as well as another trademark, namely, “Gauge Works”. Gregory E. Day (hereinafter “Greg Day”) is a top executive of Gauge Works, LLC (hereinafter “Gauge Works”) which has six (6) employees (See Exhibit II.), and is the owner of the federal trademark registration for the mark “GAUGE WORKS”. (See Exhibit III.) Greg Day filed a design patent application on November 1, 2002 for an instrument cluster display mount as shown in U.S. Patent No. D480,341. (See Exhibit IV.) The design patent application was assigned serial no. 29/170,250 (hereinafter “the ‘250 application”), and issued on October 7, 2003.

Gauge Works and Auto Meter have a business relationship regarding the sale of display mounts, such as instrument cluster display mounts, as evidenced by the use of both the Auto Meter trademark and the Gauge Works trademark displayed on page 111 of Auto Meter’s 2004 catalog attached hereto as Exhibit V.

During the prosecution of the ‘250 application, the Auto Meter Flyer was not submitted to the U.S. Patent and Trademark Office by Greg Day. Nor did Greg Day disclose any other document showing an instrument cluster bezel possessing a design similar to that shown in the Auto Meter Flyer. Attached hereto as Exhibit VI are copies of all of the references cited during the prosecution of the ‘250 application as listed on the front page of U.S. Patent No. D480,341 - See Exhibit II). Greg Day, as a top executive of Gauge Works, a six

(6) person company, would have been knowledgeable about all the various designs of display mounts regarding which Gauge Works was transacting business. Of course, during the prosecution of the '250 application, Greg Day was under a legal duty to disclose all information known to him which was material to the patentability of his invention disclosed in the '250 application. Certainly, the device shown in the Auto Meter Flyer is much more material to the patentability of the design of the '250 application than any of the devices disclosed in the references cited during the prosecution of the '250 application. If the Auto Meter Flyer was indeed a printed publication prior to June 1999, Greg Day would have known about it, or documents of its ilk, since his Gauge Works trademark was prominently displayed on this flyer. (Once on the left lateral side of the flyer, and a second time on the right lower corner portion of the flyer). Moreover, if the Auto Meter Flyer was indeed a printed publication prior to June 1999, as the Examiner of Appellant's patent application has concluded, then Greg Day would have submitted it, or another document disclosing that device or a device similar to it, to the U.S. Patent and Trademark Office for consideration during the prosecution of his '250 application. Indeed, Rule 56 states that "[e]ach individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty of disclosure to the Office all information known to that individual to be material to patentability" Thus, this objective and credible evidence squarely contradicts the Examiner's inferential conclusion that Auto Meter distributed the Auto Meter Flyer to its potential customers before June 1999.

In the alternative, if an instrument cluster display mount possessing the design shown in the Auto Meter Flyer was indeed publicly sold by Auto Meter/Gauge Works prior to the November 1, 2002 filing date of Greg Day's '250 application², then Greg Day would have likely violated Rule 56 (Duty of Candor and Good Faith) by not disclosing the Auto Meter Flyer, or a similar document, to the U.S. Patent and Trademark Office during the prosecution of the '250 application. Moreover, it is reasonably possible that the employee (or business associate) that Auto Meter selected to speak with the Examiner during her Auto Meter teleconference was Greg Day of Auto Meter/Gauge Works. Indeed, Greg Day purports to have invented the design contained in the '250 patent application, which would certainly qualify him as one knowledgeable about Auto Meter/Gauge Work's instrument cluster bezel product at the time of the Examiner's teleconference. If Greg Day was the person with whom the Examiner spoke, then the information received by the Examiner during that teleconference is highly unreliable. Indeed, Greg Day appears to have exhibited a lack of candor and good faith in his dealings with the U.S. Patent and Trademark Office during the prosecution of his '250 application.

² There is evidence in the record that indicates that such a design was disclosed in the August 2000 edition of Import Tuner which was submitted to the U.S. Patent and Trademark Office in a Supplemental Information Disclosure Statement on October 29, 2003.

(9) CONCLUSION

The record does not contain a satisfactory showing that the Auto Meter Flyer has been disseminated or otherwise made available to any member of the public. Moreover, the prosecution history of Greg Day's '250 application contradicts the Examiner's conclusion that Auto Meter distributed the Auto Meter Flyer to its potential customers before June 1999, or alternatively, shows the unreliable character of the information received by the Examiner during her teleconference with Auto Meter. Thus, the Auto Meter Flyer cannot be used as a competent prior art reference to support a 35 U.S.C. § 102(a) rejection of any of claims 26-44 and 52-61. Therefore, the Board of Patent Appeals and Interferences is respectfully requested to reverse the rejection of these claims.

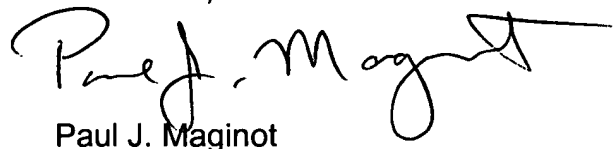
Moreover, since this patent application has been pending for an unusually long time period (approximately 3½ years) due to circumstances not caused by Appellant, and such delay has caused and is currently causing Appellant significant monetary loss due to loss of royalty income, the Board is requested to remand this patent application back to the Examiner with the directive to issue a Notice of Allowance in this matter.

April 16, 2004

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Respectfully submitted,

MAGINOT, MOORE & BECK

A handwritten signature in black ink, appearing to read "Paul J. Maginot", with a stylized flourish at the end.

Paul J. Maginot
Attorney for Appellant
Registration No. 34,984

(10) APPENDIX

26. A method of adding an additional instrument to a vehicle having a dashboard housing and an instrument cluster assembly, comprising the steps of:

removing an original dashboard bezel from a bezel mounting space defined between said dashboard housing and said instrument cluster assembly, said original dashboard bezel possessing no instrument mounts;

installing a replacement dashboard bezel in said bezel mounting space, said replacement dashboard bezel having (i) a body substantially conforming in dimension to said original dashboard bezel, and (ii) at least one instrument mount; and

locating an instrument in said at least one instrument mount.

27. The method of claim 26, wherein said locating step occurs after said installing step.

28. The method of claim 26, wherein said locating step occurs before said installing step.

29. The method of claim 26, wherein said at least one instrument mount includes an opening configured to receive said additional instrument.

30. The method of claim 26, wherein:
said instrument cluster assembly includes a window and a speedometer,
said speedometer is located on a backside of said window whereby a driver of said vehicle may view said speedometer through said window, and
said instrument mount is located on a front side of said window after said replacement dashboard bezel is installed in said installing step.

31. The method of claim 26, wherein said instrument cluster assembly includes a speedometer.

32. The method of claim 26, wherein:
said dashboard housing includes a rim which defines a viewing opening through which a driver of said vehicle may view said instrument cluster assembly, and
said installing step includes the step of securing said replacement dashboard bezel adjacent to said rim.

33. An after-market dashboard bezel, comprising:
a body configured to be mounted in a bezel mounting space defined between a dashboard housing and an instrument cluster assembly of a vehicle;
and
an instrument mount secured to said body.

34. The after-market dashboard bezel of claim 33, wherein said instrument mount is integrally formed with said body.

35. The after-market dashboard bezel of claim 33, wherein:
said body is formed by an upper body portion, a lower body portion, a right side portion coupled to a first side of said upper body portion and a first side of said lower body portion, and a left side portion coupled to a second side of said upper body portion and a second side of said lower body portion, and
said upper body portion, said lower body portion, said right side portion, and left side portion collectively define a viewing opening.

36. The after-market dashboard bezel of claim 35, wherein said upper body portion, said lower body portion, said right side portion, and left side portion of said body are integrally formed with one another.

37. The after-market dashboard bezel of claim 35, wherein said instrument mount is positioned proximate to said lower body portion.

38. The after-market dashboard bezel of claim 37, further comprising a second instrument mount disposed proximate said lower body portion.

39. The after-market dashboard bezel of claim 38, wherein:
said first instrument mount is positioned proximate to said right side portion, and
said second instrument mount is positioned proximate to said left side portion.

40. A method of modifying a vehicle having a dashboard housing and an instrument cluster assembly, comprising the steps of:

removing an original dashboard bezel from a bezel mounting space defined between said dashboard housing and said instrument cluster assembly, said original dashboard bezel possessing no instrument mounts; and

installing a replacement dashboard bezel in said bezel mounting space, said replacement dashboard bezel having at least one instrument mount.

41. The method of claim 40, wherein said at least one instrument mount is configured to retain an additional instrument.

42. The method of claim 40, wherein:
said instrument cluster assembly includes a window and a speedometer,
said speedometer is located on a backside of said window whereby a driver of said vehicle may view said speedometer through said window, and
said instrument mount is located on a front side of said window after said replacement dashboard bezel is installed in said installing step.

43. The method of claim 40, wherein said instrument cluster assembly includes a speedometer.

44. The method of claim 40, wherein:
said dashboard housing includes a rim which defines a viewing opening through which a driver of said vehicle may view said instrument cluster assembly, and
said installing step includes the step of securing said replacement dashboard bezel adjacent to said rim.

52. A method of adding an instrument to a vehicle that includes a speedometer, comprising the steps of:

removing an original vehicle part from a mounting space of the vehicle, wherein the original vehicle part has a viewing opening through which a driver of the vehicle may view the speedometer when the original vehicle part is located in the mounting space of the vehicle, and wherein the original vehicle part possesses no instrument mounts;

installing a replacement vehicle part in the mounting space after the removing step, wherein the replacement vehicle part has at least one instrument mount; and

locating the instrument in the at least one instrument mount.

53. The method of claim 52, wherein:

the vehicle further includes a dashboard having a dashboard opening through which the driver of the vehicle may view the speedometer,

the original vehicle part is configured to substantially conform to the dashboard opening, and

the replacement vehicle part is also configured to substantially conform to the dashboard opening.

54. The method of claim 53, wherein:

the dashboard includes a rim which defines the dashboard opening, and

the installing step includes the step of securing the replacement vehicle part adjacent to the rim.

55. The method of claim 52, wherein the locating step occurs after the installing step.

56. The method of claim 52, wherein the locating step occurs before the installing step.

57. The method of claim 52, wherein:

the vehicle includes an instrument cluster assembly having a housing and a window,

the instrument cluster assembly includes the speedometer,

the speedometer is located on a backside of the window whereby the driver of the vehicle may view the speedometer through the window, and

the at least one instrument mount is located on a front side of the window after the replacement vehicle part is installed in the vehicle in the installing step.

58. A method of modifying a vehicle that includes a speedometer, comprising the steps of:

removing an original vehicle part from a mounting space of the vehicle, wherein (i) the original vehicle part has a first viewing opening through which a driver of the vehicle may view the speedometer when the original vehicle part is located in the mounting space of the vehicle, and (ii) the original vehicle part possesses no instrument mounts; and

installing a replacement vehicle part in the mounting space after the removing step, wherein (i) the replacement vehicle part has a second viewing opening through which the driver of the vehicle may view the speedometer when the replacement vehicle part is located in the mounting space of the vehicle, and (ii) the replacement vehicle part possesses at least one instrument mount.

59. The method of claim 58, wherein:

the vehicle further includes a dashboard having a dashboard opening through which the driver of the vehicle may view the speedometer,

the original vehicle part is configured to substantially conform to the dashboard opening, and

the replacement vehicle part is also configured to substantially conform to the dashboard opening.

60. The method of claim 59, wherein:

the dashboard includes a rim which defines the dashboard opening, and

the installing step includes the step of securing the replacement vehicle part adjacent to the rim.

61. The method of claim 58, wherein:

the vehicle includes an instrument cluster assembly having a window,

the instrument cluster assembly includes the speedometer,

the speedometer is located on a backside of the window whereby the driver of the vehicle may view the speedometer through the window, and

the at least one instrument mount is located on a front side of the window after the replacement vehicle part is installed in the vehicle in the installing step.

GAUGES NOT INCLUDED WITH GAUGEWORKS PRODUCTS

STEERING COLUMN POD

CAR MODEL	INCLUDES/DETAILS	2 1/16"
Ford Mustang 94-03	FITS OVER STEERING COLUMN AND HOLDS A SINGLE 2 1/16" AUTO METER GAUGE	10004

COMBINATION PILLARS

CAR MODELS	INCLUDES/DETAILS	TRIPLE COMBINATION
Chevy Impala, Caprice 92-96	ALLOWS YOU TO MOUNT TWO 2 1/16" GAUGES ON TOP & ONE 2 5/8" GAUGE ON THE BOTTOM	12235
Chevy Impala, SS 92-96 (gray)	ALLOWS YOU TO MOUNT TWO 2 1/16" GAUGES ON TOP & ONE 2 5/8" GAUGE ON THE BOTTOM	12232

DASH POD

CAR MODEL	INCLUDES/DETAILS	MODEL NUMBER
Ford Mustang 94-03	REPLACES CLOCK ON 94-98 MODELS. HOLDS 2 AUTO METER 2 1/16" GAUGES	10001

TACH POD

CAR MODEL	INCLUDES/DETAILS	MODEL NUMBER
Ford Mustang 87-93	FOR USE WITH 5" AUTO METER TACHS WITH 3 3/8" CASE AND 2 5/8" GAUGES	49102

CONSOLE PODS

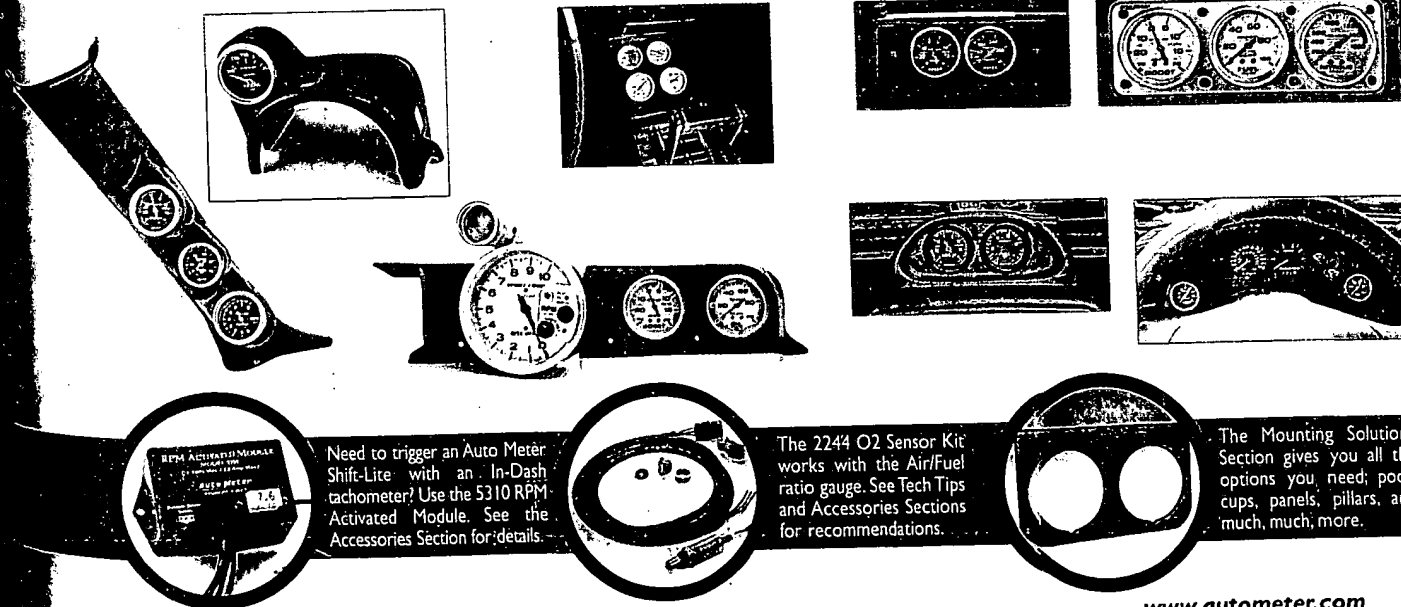
CAR MODELS	INCLUDES/DETAILS	MODEL NUMBER
Camaro Factory Console 68-69	MOUNTS FOUR 2 1/16" GAUGES IN THE FACTORY SHIFTER (CONSOLE)	10002
Chevy Nova Factory Console 68-74	MOUNTS FOUR 2 1/16" GAUGES IN THE FACTORY SHIFTER (CONSOLE)	10002

GAUGE CAGES

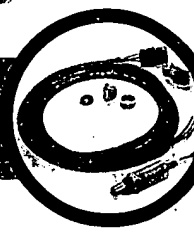
CAR MODELS	COLOR	DUAL CAGE 2 5/8"	DUAL CAGE (WITH VENTS) 2 5/8"	TRIPLE CAGE 2 5/8"
Ford Mustang 87-93	Black	50102	50101	50100
Ford Mustang 87-93	Silver	—	50104	50103

DUAL INSTRUMENT CLUSTER BEZELS

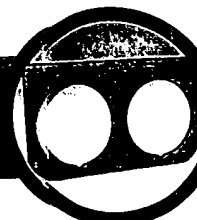
CAR MODEL	INCLUDES/DETAILS	MODEL NUMBER
Ford Mustang 94-00	FOR USE WITH AUTO METER 2 1/16" GAUGES	10003
Ford Mustang 01-03	FOR USE WITH AUTO METER 2 1/16" GAUGES	10005



Need to trigger an Auto Meter Shift-Lite with an In-Dash tachometer? Use the 5310 RPM Activated Module. See the Accessories Section for details.



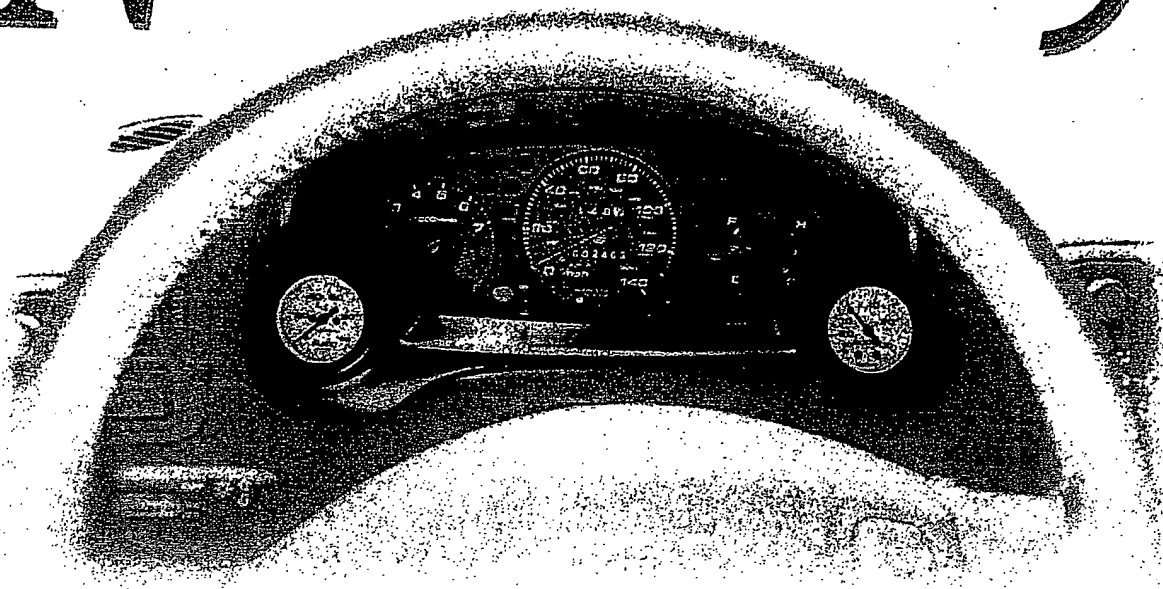
The 2244 O2 Sensor Kit works with the Air/Fuel ratio gauge. See Tech Tips and Accessories Sections for recommendations.



The Mounting Solutions Section gives you all the options you need: pods, cups, panels, pillars, and much, much, more.

EXHIBIT I

NEW FOR '99



Gauge Bezels for:

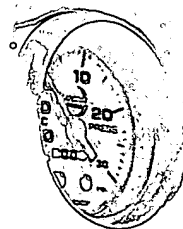
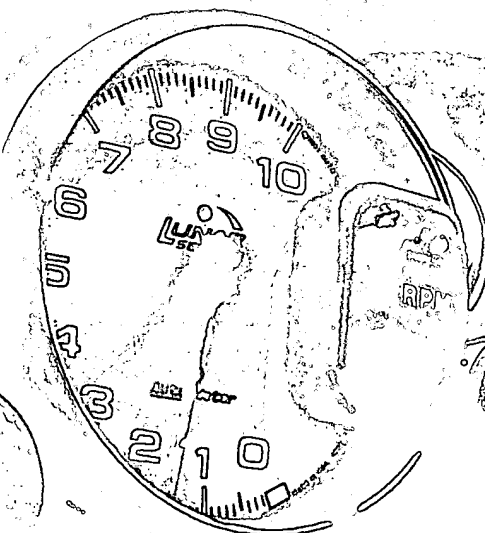
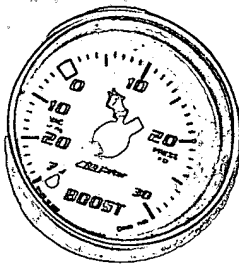
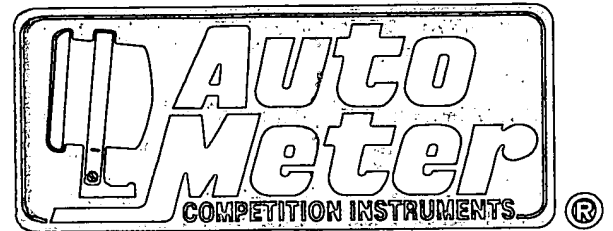
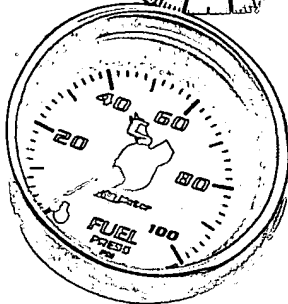
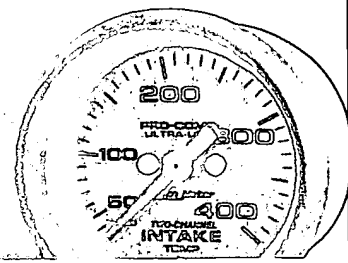
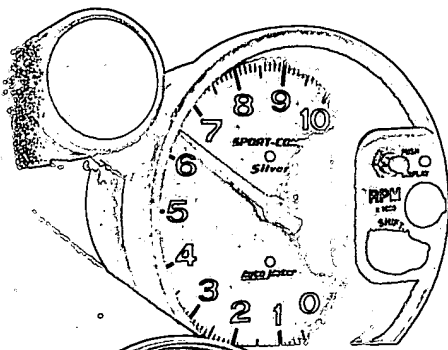
- Honda Civic 96+
- Acura Integra 94+
- Ford Mustang 94+

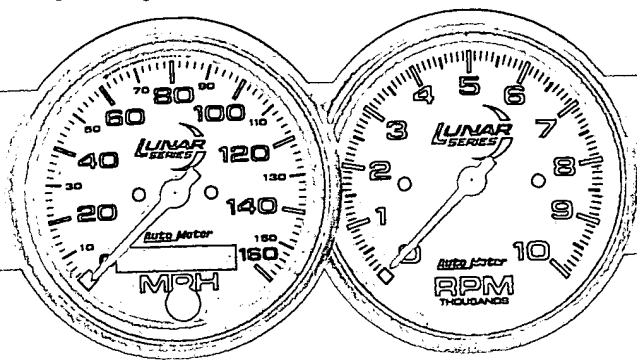
Available in June!

Auto Meter Products, Inc. • (815) 895-8141
413 West Elm Street, Sycamore, IL 60178

***Auto Meter* GAUGE WORKS**

Stop by our Booth at SEMA, to see our new products!

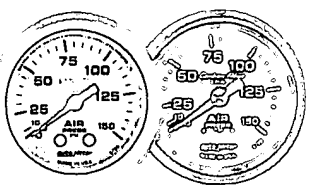




LUNAR TACH & SPEEDO

PG. 88

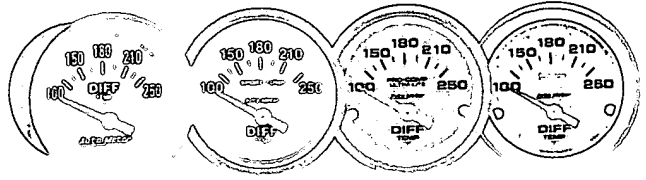
Air Pressure Gauges



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Differential Temperature Gauges



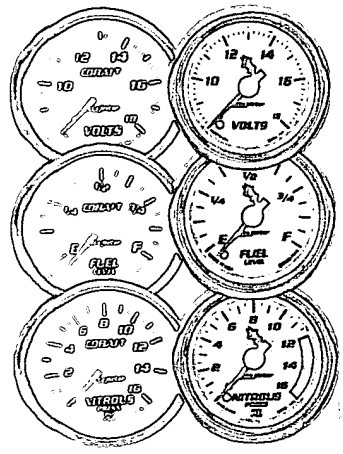
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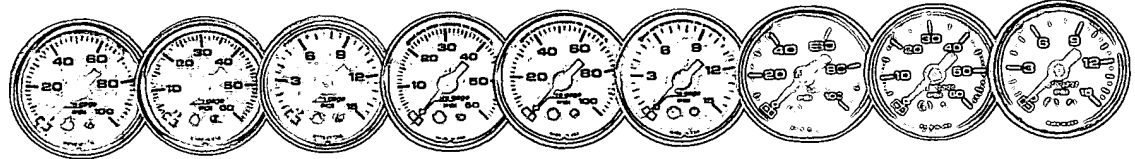
Volts, Fuel & Nitrous Gauges



PG. 93

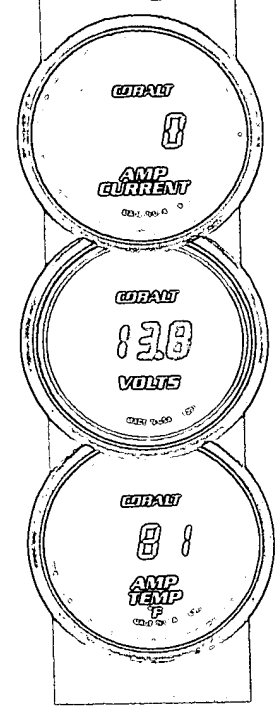
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1 1/2 Gauges



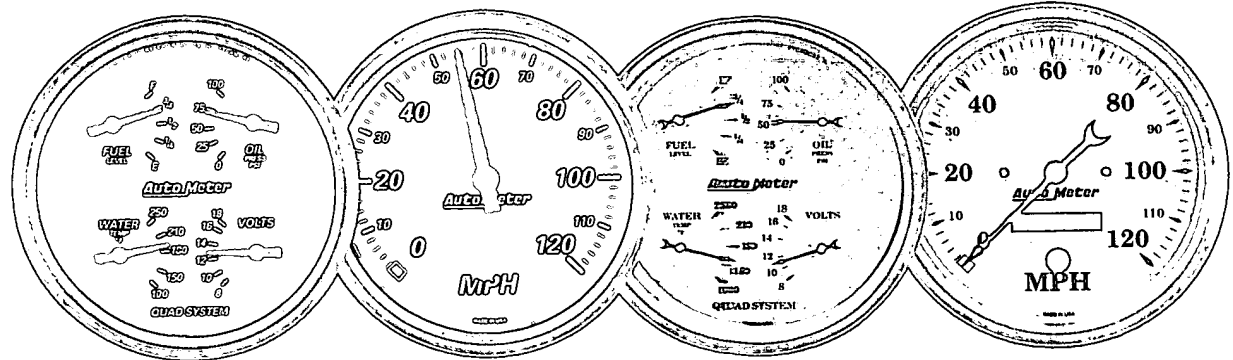
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Audio Gauges



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Quad Gauge and Speedo Kit



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Auto gage®	Designer Black™	Monster Tach™
Auto Meter®	Dial-In-Exactness™	Performance™
Battery Extender®	Fuel Saver™	Phantom®
C2™	Golden Oldies™	Playback™
Carbon Fiber™	Hi-Lo™	Pro-Comp™
Chosen by the Pro's™	Liquid Filled™	Pro-Control™
Cobalt™	LTM™	Pro-Lite®
Competition	Lunar Series™	Pro-Shift™

Carbon Fiber

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- 125 BULBS & SOCKETS, COLORED LENS KITS, PRO-LITE WARNING LIGHT SWITCHES, TEMPERATURE MANIFOLDS, NITROUS/FUEL RESTRICTOR, TUBING /HOSE AND PLAYBACK BOX WIRE HARNESS
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AUTO METER IS A MEMBER OF:

SRMA



EXHIBIT II



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Business Background Report : GAUGE WORKS LLC

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BUSINESS BACKGROUND REPORT

GAUGE WORKS LLC

DUNS: 84-109-3649

DATE PRINTED: April 15, 2004

=====

+ENGINEERING DESIGN AND MANUFACTURING
(FAIRFAX CO)

10407 DOWN PATRICK LN
GREAT FALLS, VA 22066
Telephone: 703 757-6566

Year Started: Dec 19 2000
Control Year: 2000
This is a Single location.

Employees Total: 6

Top Executive: GREG DAY, PRINCIPAL

=====

INDUSTRY

Line of Business: MFG MEASURING/CONTROLLING DEVICES

Primary SIC:

3829 (MFG MEASURING/CONTROLLING DVCS)

=====

BUSINESS HISTORY

04/15/03
GREG DAY, MEMBER

Registered as a Limited Liability Company (LLC) in State of
Virginia on Dec 19 2000.

Business started Dec 19 2000 by Greg Day.

Registration date of Limited Liability Company (LLC) used as
start date.

GREG DAY. Work history unknown.

=====

OPERATIONS

04/15/03 Manufactures measuring and controlling devices, specializing in

ultrasonic thickness gauging instruments.
Territory : Local.
EMPLOYEES: 6 which includes partners.
FACILITIES: Operates from residence of Greg Day.

=====

CUSTOMER SERVICE

If you need any additional information or have any questions regarding this report, please call our Customer Service Center at 1-800-234-DUNS(3867).

=====

END OF DUN & BRADSTREET BUSINESS BACKGROUND REPORT

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EXHIBIT III



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Record 1 out of 1**Check Status***(TARR contains current status, correspondence address and attorney of record for this mark. Use the "Back" button of the Internet Browser to return to TESS)***Typed Drawing**

Word Mark	GAUGE WORKS
Goods and Services	IC 012. US 019 021 023 031 035 044. G & S: gauge housings being aftermarket automotive structural parts. FIRST USE: 19950309. FIRST USE IN COMMERCE: 19950309
Mark Drawing Code	(1) TYPED DRAWING
Serial Number	75265970
Filing Date	March 28, 1997
Current Filing Basis	1A
Original Filing Basis	1A
Published for Opposition	February 24, 1998
Registration Number	2158665
Registration Date	May 19, 1998
Owner	(REGISTRANT) Day, Greg INDIVIDUAL UNITED STATES 12532 Cliff Edge Dr. Herndon VIRGINIA 20170
Disclaimer	NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "GAUGE" APART FROM THE MARK AS SHOWN
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE

[PTO HOME](#) [TRADEMARK](#) [TESS HOME](#) [NEW USER](#) [STRUCTURED](#) [FREE FORM](#) [BROWSE/DICT](#) [TOP](#) [HELP](#)

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This page was generated by the TARR system on 2004-04-15 12:46:05 ET

Serial Number: 75265970

Registration Number: 2158665

Mark (words only): GAUGE WORKS

Standard Character claim: No

Current Status: Registered.

Date of Status: 1998-05-19

Filing Date: 1997-03-28

Transformed into a National Application: No

Registration Date: 1998-05-19

Register: Principal

Law Office Assigned: TMEG Law Office 104

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 900 -Warehouse (Newington)

Date In Location: 1998-05-21

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Day, Greg

Address:

Day, Greg
12532 Cliff Edge Dr.
Herndon, VA 20170
United States

Legal Entity Type: Individual

Country of Citizenship: United States

GOODS AND/OR SERVICES

gauge housings being aftermarket automotive structural parts

International Class: 012

First Use Date: 1995-03-09

First Use in Commerce Date: 1995-03-09

Basis: 1(a)

ADDITIONAL INFORMATION

Disclaimer: "GAUGE"

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

1998-05-19 - Registered - Principal Register

1998-02-24 - Published for opposition

1998-01-23 - Notice of publication

1997-12-17 - Approved for Pub - Principal Register (Initial exam)

1997-12-08 - Examiner's amendment mailed

1997-10-31 - Non-final action mailed

1997-10-30 - Case file assigned to examining attorney

CONTACT INFORMATION

Correspondent (Owner)

GREG DAY

12532 CLIFF EDGE DR

HERNDON VA 20170

United States

GAUGES NOT INCLUDED WITH GAUGEWORKS PRODUCTS

STEERING COLUMN POD

CAR MODEL	INCLUDES/DETAILS	2 1/16"
Ford Mustang 94-03	FITS OVER STEERING COLUMN AND HOLDS A SINGLE 2 1/16" AUTO METER GAUGE	10004

COMBINATION PILLARS

CAR MODELS	INCLUDES/DETAILS	TRIPLE COMBINATION
Chevy Impala, Caprice 92-96	ALLOWS YOU TO MOUNT TWO 2 1/16" GAUGES ON TOP & ONE 2 5/8" GAUGE ON THE BOTTOM	12235
Chevy Impala, SS 92-96 (gray)	ALLOWS YOU TO MOUNT TWO 2 1/16" GAUGES ON TOP & ONE 2 5/8" GAUGE ON THE BOTTOM	12232

DASH POD

CAR MODEL	INCLUDES/DETAILS	MODEL NUMBER
Ford Mustang 94-03	REPLACES CLOCK ON 94-98 MODELS. HOLDS 2 AUTO METER 2 1/16" GAUGES	10001

TACH POD

CAR MODEL	INCLUDES/DETAILS	MODEL NUMBER
Ford Mustang 87-93	FOR USE WITH 5" AUTO METER TACHS WITH 3 3/8" CASE AND 2 5/8" GAUGES	49102

CONSOLE PODS

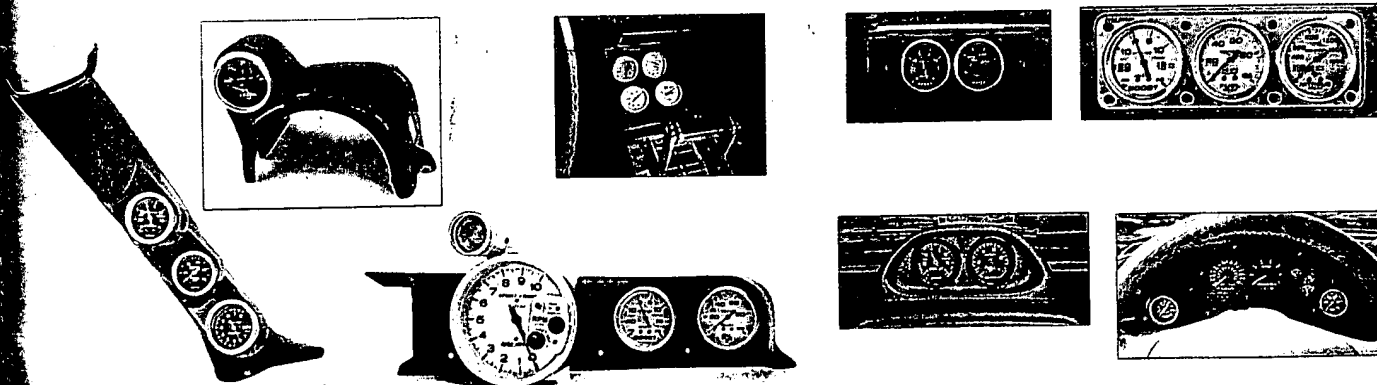
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GAUGE CAGES

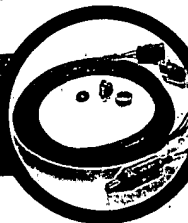
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DUAL INSTRUMENT CLUSTER BEZELS

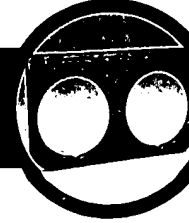
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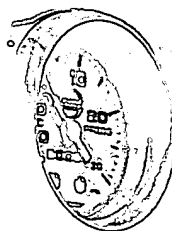
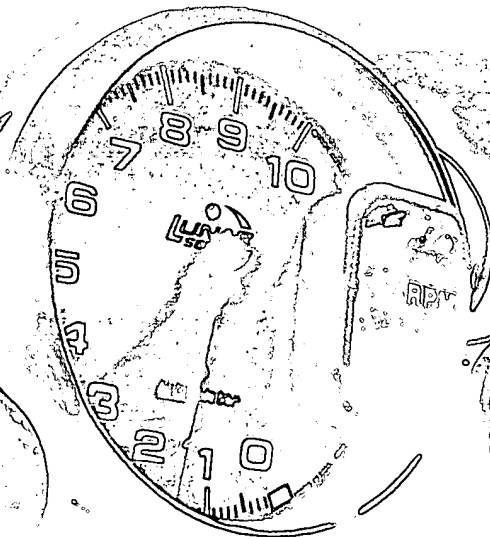
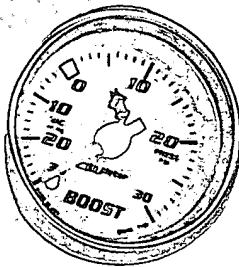
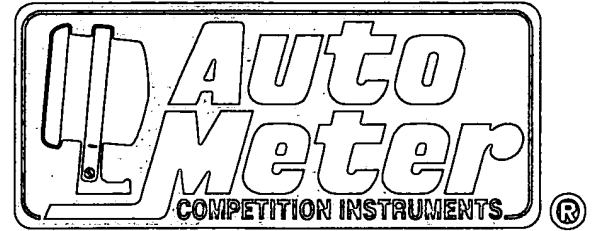
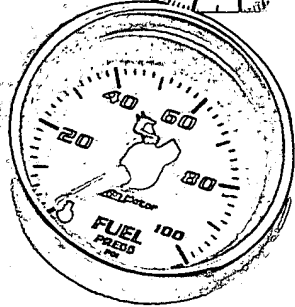
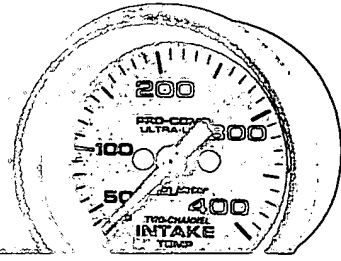
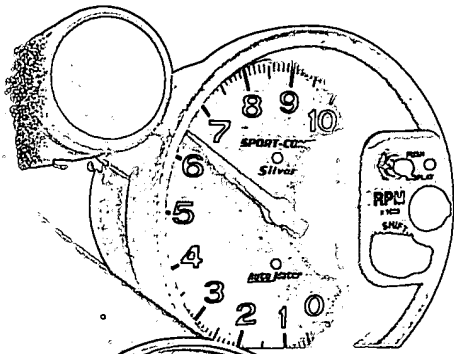
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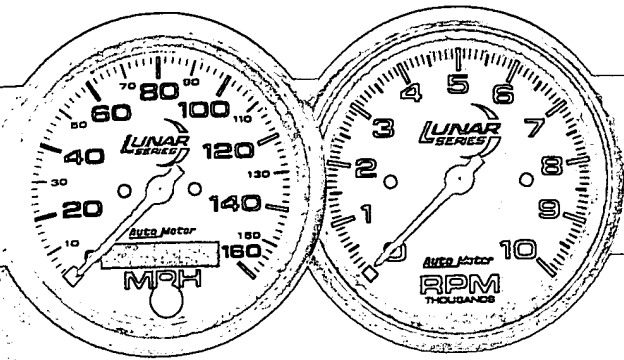


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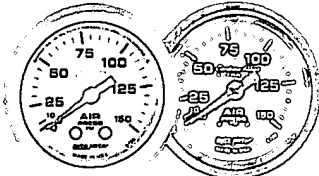




LUNAR TACH & SPEEDO

PG. 88

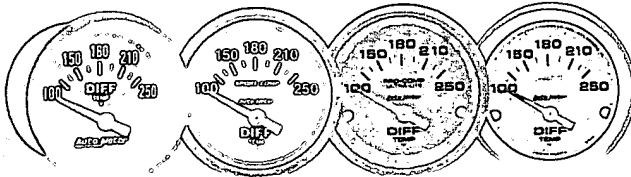
Air Pressure Gauges



PG. 52

PG. 77

Differential Temperature Gauges



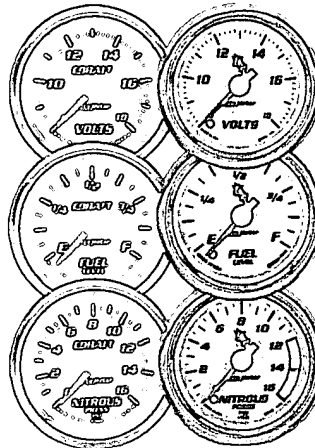
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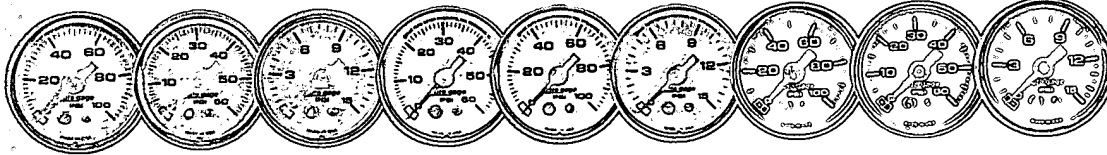
Volts, Fuel & Nitrous Gauges



PG. 93

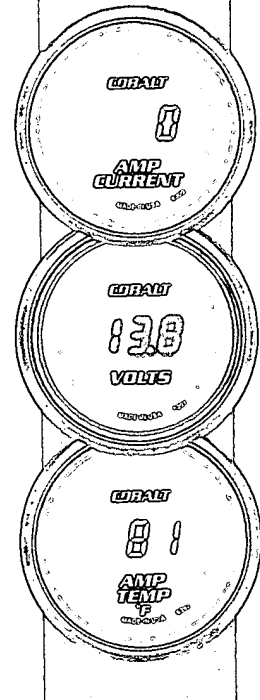
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1 1/2 Gauges



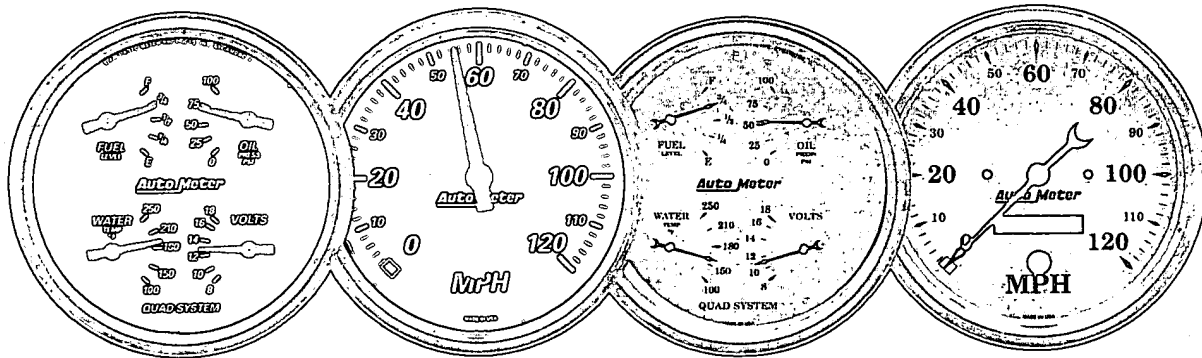
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Audio Gauges



PG. 93

Quad Gauge and Speedo Kit



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- 75 FULL SWEEP ELECTRIC GAUGES
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- 79 PACKAGE SOLUTIONS
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- 124 TEMPERATURE ADAPTERS, METRIC ADAPTERS, EXTENSION ADAPTERS, LIGHT BULB COVERS, SHOCK MOUNTING ADAPTERS, GAUGE ACCESSORIES, FUEL PRESSURE ADAPTERS, -4AN ELBOW FITTINGS AND BULB & SOCKETS
- 125 BULBS & SOCKETS, COLORED LENS KITS, PRO-LITE WARNING LIGHT SWITCHES, TEMPERATURE MANIFOLDS, NITROUS/FUEL RESTRICTOR, TUBING /HOSE AND PLAYBACK BOX WIRE HARNESS
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